

**ADVISORY COMMITTEE ON THE
FRAMEWORK CONVENTION FOR THE
PROTECTION OF NATIONAL MINORITIES**

COUNCIL OF EUROPE



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**Fourth Opinion on Estonia
adopted on 19 March 2015**

SUMMARY

Estonia has continued its efforts to promote integration of society. The latest expression of these efforts is the Strategy “Integrating Estonia 2020” adopted in December 2014. Access to Estonian citizenship has been facilitated, in particular for newly born children of stateless parents, for stateless children under 15 years of age born in Estonia, and for persons older than 65 years of age. Notwithstanding the authorities’ efforts to facilitate the acquisition of citizenship by stateless persons, about 85.000 persons, who make up over 6 per cent of the population of Estonia, cannot participate fully in the democratic life of the country, on account of lack of citizenship.

Strong legislative provisions and policies designed to protect the Estonian language and to guarantee its pre-eminence in all areas of public life, despite the multilingual makeup of Estonian society, remain cornerstones of public policy in Estonia. The Language Inspectorate continues to wield wide powers in the field of employment, including in particular verification of language proficiency and imposition of fines.

In the last seven years Estonian became the main language of instruction in upper-secondary Russian-language schools with 60 percent of the curriculum taught in that language. However, a number of problems accompanied this process, including a lack of qualified teachers and teaching manuals adapted for children whose first language is not Estonian.

The Place Names Act of 2004 continues to limit significantly the possibility to display signs in languages of national minorities and anachronistically refers to the ethnic composition of municipalities in 1939. The threshold of 50 per cent of residents required to allow use of a national minority language in contacts with local public administration is prohibitively high and is not compatible with the Framework Convention.

Recommendations for immediate action:

- continue with efforts to further reduce statelessness and to facilitate access to citizenship for long-term residents in Estonia;
- ensure that the Language Act is implemented in a flexible way, taking into account the linguistic rights of persons belonging to national minorities; refrain from imposing fines for violations of the Language Act and replace the penalising approach with a policy of positive incentives;
- ensure that persons belonging to national minorities, in areas where they reside traditionally or in substantial numbers, have the effective possibility to use their minority language in relations with local authorities, in writing and orally; review the conditions required for the display of traditional local names, street names and other topographical indications intended for the public in minority languages in areas where persons belonging to national minorities reside traditionally or in substantial numbers;
- monitor the implementation of the requirement of teaching of 60 per cent of the study workload in Estonian with the view of introducing required flexibility into the system and ensure that the range of subjects taught at minority language schools, in particular the vocational ones, generally does not suffer as a result of a lack of qualified teachers, capable of teaching specialist subjects in Estonian.

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I. KEY FINDINGS

Monitoring process

1. This fourth cycle Opinion on the implementation of the Framework Convention by Estonia was adopted in accordance with Article 26 (1) of the Framework Convention and Rule 23 of Resolution (97) 10 of the Committee of Ministers. The findings are based on information contained in the fourth [State Report](#), submitted by the authorities on 2 May 2014, other written sources and on information obtained by the Advisory Committee from governmental and non-governmental contacts during its visit, carried out jointly with the European Committee against Racism and Intolerance (ECRI) to Tallinn and Narva on 17-21 November 2014. The Advisory Committee would wish to express its gratitude for the open and constructive approach of the authorities during the said visit.
2. The Advisory Committee notes however with regret that no follow-up seminar was organized in Estonia following the conclusion of the last monitoring cycle. Such an event would have been a useful occasion for discussion of the Advisory Committee's third Opinion and the Committee of Ministers' subsequent recommendations, as well as more generally of developments affecting national minorities and policies implemented to address their concerns. Consequently, the Advisory Committee notes that the knowledge of the provisions of the Framework Convention among the potential beneficiaries remains low.
3. The Advisory Committee looks forward to continuing its dialogue with the authorities of Estonia as well as with representatives of national minorities and others involved in the implementation of the Framework Convention. In order to promote an inclusive and transparent process, the Advisory Committee strongly encourages the authorities to make the present Opinion public upon its receipt. It also invites them to consider translating the present Opinion and the forthcoming Committee of Ministers' Resolution into Estonian and Russian, which is widely spoken among persons belonging to national minorities, and to disseminate it widely among all the relevant actors.

General overview of the present situation

4. Estonia has maintained a consistent albeit *de facto* policy of an inclusive approach as regards the personal scope of application of the Framework Convention and the authorities have continued their efforts to promote integration of society, based on the understanding that integration is a two-way process and affects society as a whole. The latest Strategy "Integrating Estonia 2020" approved by the Government of Estonia on 29 December 2014, while maintaining the overall goal of the promotion of proficiency in the Estonian language as the main tool for integration, focuses more than the preceding ones¹ on equal access to work, education and culture, as well as intercultural contacts among different segments of society, regardless of their linguistic or cultural background.
5. Efforts undertaken recently by the Estonian authorities to reduce the number of persons without citizenship residing in Estonia on a permanent basis are welcome. In particular, the changes introduced to the Citizenship Act on 21 January 2015, which will become effective in 2016² abolished (as regards newly born children) the principle of *jus sanguinis* and retrospectively granted citizenship to

¹ See Strategy of Integration and Social Cohesion of Estonia "Integrating Estonia 2020" pg 11 et seq .

² See <http://estonia.eu/about-estonia/society/citizenship.html>; <http://news.postimees.ee/3064073/parlt-approves-amendments-to-simplify-acquisition-of-citizenship>

stateless children under 15 born in Estonia, scrapped the written language exam for persons older than 65 years, and allowed for double citizenship of minors, who henceforth will be obliged to choose one country of citizenship within three years after reaching the age of eighteen. It has to be noted however that, notwithstanding the authorities efforts to facilitate the acquisition of citizenship by stateless persons and noting that such persons have mostly the same rights as citizens, except the right to stand in any election, vote in parliamentary elections or to establish or to join a political party, still about 85.000 persons, who make up over 6 per cent of the population of Estonia cannot participate fully in the democratic life of the country on account of the lack of citizenship.

6. The unemployment rate almost halved in the years 2010-2013 in Estonia, including in most affected parts of the country inhabited by large number of persons whose first language is Russian. The Advisory Committee notes, however, that in areas inhabited by a large number of persons belonging to national minorities, such as in Ida-Viru County, it is still significantly higher than the State average³. Language proficiency requirements continue to be an obstacle to employment for a decreasing but still considerable number of persons whose first language is not Estonian.

Assessment of measures taken to implement the third cycle recommendations for immediate action

7. Measures undertaken to implement recommendations for immediate action have been most successful as regards the manner in which the transition to the State language as the main language of instruction in upper-secondary Russian language schools was implemented. In the last seven years Russian-language schools in Estonia increased teaching of courses in Estonian language with the aim of reaching 60 percent of the curriculum to be taught in Estonian. This process, undertaken gradually, has achieved its aim, without generally lowering the standard of education in the schools concerned. It has to be noted however that some schools had to sacrifice their specific profile and chose optional and elective subjects according to the possibility of hiring qualified teachers able to teach in Estonian and not in keeping with the school's specificity. Not all necessary teaching manuals have been adapted to national minority students and not all teachers have the required level of command of the Estonian language. In addition, reportedly, some teaching methods were sacrificed due to the lack of language proficiency on the part of the teachers. This measure has further alienated at least some young minority children, who in addition consider the attempt to teach them subjects in Estonian as discrimination and humiliation⁴.

8. The authorities' approach as regards the rights of persons belonging to national minorities to speak and use their languages in public, also in relations with local authorities, has been less positive. Strong legislative provisions and policies designed to protect the Estonian language and to guarantee its pre-eminence in all areas of public life, despite the multilingual makeup of Estonian society, remain cornerstones of public policy in Estonia. The Language Inspectorate, in charge of enforcement of the Language Act of 2011, continues to wield wide powers, including checking the level of language

³ See State Report pg. 37

⁴ Report « About Efficiency of Studies in Russian-medium Upper Secondary Schools Upon Transition to Upper Secondary School Studies in Estonian (At Least 60% of Compulsory Courses) » prepared for the Minister of Education and Research, Tallinn, 18 September 2014.

proficiency of employees, requiring that a person concerned take the Estonian language proficiency exam, recommending termination of employment contracts of employees or civil servants whose Estonian language proficiency does not meet the required standard. Although never as a measure of first resort, and reportedly, after giving repeated warnings to persons concerned, the Inspectorate has continued to impose fines on employees. As of 1 January 2015, the Inspectorate has the power to impose fines on employers – a measure that interlocutors of the Advisory Committee were not aware of. Moreover, no constructive dialogue has been held with representatives of national minorities about language-related developments and the long-term role of the Inspectorate. All this is not conducive to creating a positive climate around learning Estonian and to the general spirit of tolerance and unity in society. In addition, it does not contribute to the promotion of minority languages and their co-existence with the Estonian language.

9. Finally, some steps were taken to consult persons belonging to national minorities in the run-up to the adoption of the Strategy “Integrating Estonia 2020”. More generally, no measures have been taken to expand consultative mechanisms for persons belonging to national minorities beyond the cultural sphere, and no improvement has been reported about the functioning of the consultative mechanism in the cultural sphere.

Assessment of measures taken to implement the further recommendations from the third monitoring cycle

10. Although the Office of the Gender Equality and Equal Treatment Commissioner has been established in 2009, the number of cases submitted concerning alleged instances of discrimination remains low. Furthermore, there has been no improvement as regards staffing and funding for the office which remain a matter of concern.

11. The media environment remains deeply divided along linguistic lines with different segments of society, in particular the Estonian and Russian speakers, consuming different media, which not only differ in language, but also in cultural, political and ideological outlooks, with some representatives of national minorities perceiving Estonian language media as addressing a narrowly defined audience, which excludes minorities, and produce disunity of society. Large and often overbearing presence of foreign channels, in the absence of locally produced media contents in minority languages, which exert strong influence on some parts of the public opinion in Estonia, in particular the Russian-speakers, exacerbates the existing divisions further. In this context the launch of a new publicly funded Russian-language TV channel to operate within the Estonian Public Broadcasting organisation is most welcome.

12. There have been no changes since the adoption of the Third Advisory Committee Opinion, as regards the legislation and policy concerning introduction of minority language place names, in line with the principles contained in Article 11 of the Framework Convention. The Place Names Act of 2004 limits the possibility to display signs in languages of national minorities to small settlements and villages in spite of the fact that the majority of persons belonging to minorities reside in cities, and refers to the ethnic composition of municipalities in 1939. In practice, regrettably, no signs in Russian have been displayed, even in small settlements meeting the strict criteria of the law.

13. Finally, regrettably, no steps were taken to expand opportunities for bilingual education with the aim of increasing opportunities for contacts between the majority and the minority communities. In

fact, policies implemented in the recent years perpetuate the division between Estonian and Russian language schools.

II. ARTICLE-BY-ARTICLE FINDINGS

Article 3 of the Framework Convention

Personal scope of application of the Framework Convention

Present situation

14. The Advisory Committee notes that within the domestic legal order⁵, the term “national minority” applies to Estonian citizens, who reside within its territory, have longstanding, firm and lasting ties with the country, differ from the majority population by their ethnic belonging, cultural characteristics, religion or language and who are led by their wish to collectively maintain their cultural traditions, religion or language which are the basis for their common identity. The declaration deposited at the moment of ratification of the Framework Convention repeats this definition⁶. The Advisory Committee notes with satisfaction that, in spite of the limitations stemming from these definitions the Estonian authorities have continued to maintain their *de facto* inclusive approach as regards the personal scope of application of the Framework Convention. However, the Advisory Committee would like to reiterate again that this formal exclusion of non-citizens from the personal scope of application of the Framework Convention, retains a strong symbolic importance among persons belonging to national minorities.

15. The Advisory Committee welcomes the fact that in practice citizens and non-citizens enjoy virtually equal access to rights, apart from the right to establish or to join a political party, stand in elections or vote in parliamentary elections, which is only held by citizens. Efforts undertaken recently by the Estonian authorities to reduce the number of persons without citizenship residing in Estonia on a permanent basis are welcome. In particular, the Committee notes with satisfaction that the changes introduced to the Citizenship Act on 21 January 2015 abolished the principle of *jus sanguinis* (as regards newly born children) and retrospectively granted citizenship to stateless children under 15 years of age born in Estonia, whose parents have not petitioned the authorities in the prescribed time at birth. The amendments abolished the written language exam for persons who are older than 65 years of age, and allowed for double citizenship of minors, who henceforth will be obliged to choose one country of citizenship within three years after reaching the age of 18 years. These commendable changes to the Citizenship Act follow broadly the Advisory Committee’s recommendations made in its Third Opinion.

16. While welcoming the authorities’ efforts to reduce statelessness and to facilitate access to citizenship, the Advisory Committee acknowledges the fact that the motivation and resolve to acquire citizenship of Estonia may be weakened by the necessity for the applicants to pass the Estonian language exam on the one hand, and by particular advantages enjoyed by stateless persons with the so-called ‘grey passports’, who may travel visa-free not only to the European Union but also to the Russian Federation, on the other. The Advisory Committee notes however that the retention of the oral State

⁵ See Section 1 of the National Minorities Cultural Autonomy Act of 1993.

⁶ Declaration made at the time of deposit of the instrument of ratification on 6 January 1997 stipulates that “The Republic of Estonia understands the term “national minorities”, which is not defined in the Framework Convention for the Protection of National Minorities, as follows: are considered as “national minority” those citizens of Estonia who reside on the territory of Estonia; maintain longstanding, firm and lasting ties with Estonia; are distinct from Estonians on the basis of their ethnic, cultural, religious or linguistic characteristics; are motivated by a concern to preserve together their cultural traditions, their religion or their language, which constitute the basis of their common identity.”

language exam for applicants over 65 years of age and the reported insufficient availability and non-affordability of language training opportunities in certain localities, combined with the lack of confidence in their language proficiency, are likely to have a significantly negative influence on the number of persons seeking naturalisation.

17. Finally, the Advisory Committee wishes to reiterate in this context its position that the inclusion of a citizenship requirement in the declaration contained in the instrument of ratification may cause arbitrary and unjustified distinctions and can thus have discriminatory effects. Moreover, this formal exclusion of non-citizens belonging to national minorities in Estonia from the personal scope of application of the Framework Convention acts still as a strong symbolic disincentive among persons belonging to national minorities and further decreases their motivation to apply for citizenship even if they meet the criteria.

Recommendations

18. The Advisory Committee encourages the authorities to continue to pursue an open and inclusive approach to the Framework Convention's personal scope of application and reiterates its call to consider also extending formally the legal definition of the term national minority to long-term residents without Estonian citizenship.

19. The Advisory Committee calls on the authorities to continue with their efforts to reduce the number of stateless long-term residents in Estonia. In particular, the Advisory Committee strongly encourages the authorities seriously to consider the introduction of free-of-charge language classes that will be helpful not only for passing the citizenship examination but also in general to promote the integration of society.

Data collection

Present situation

20. A Population and Housing Census was organised in Estonia on 31 December 2011⁷. The Advisory Committee notes that the personal questionnaire used during the census was translated into Russian and English and contained a question on ethnic origin as well as questions on mother tongue and other languages spoken. The Advisory Committee notes that the Census was conducted using a variety of techniques, including the internet and classical census interviews. It is important to note however, that most of the data was collected during the census from the electronic official registers without any direct input from the respondents.

21. The Advisory Committee further notes that the number of enumerated permanent residents in possession of Estonian citizenship has risen from 80% in 2000 to 85.1% in 2011, and of those in possession of a foreign citizenship from 6.9% to 8.1%. Compared to the previous Population and

⁷ According to the census of 2011, Estonia's population consists of 1.29 million permanent residents and continues to decrease, having shrunk by 6% since the census of 2000. The ethnic composition of the country's population remains however stable. The latest census figures show that 68.7% of Estonia's permanent population are ethnic Estonians (889,770), 24.8% are Russians (321,198) and 1.7% are Ukrainians (22,302). The share of Belarusians (12,419) and Finns (7,423) is less than 1%. Of the 192 ethnicities declared in the census, Tatars, Latvians, Poles, Jews, Lithuanians, Germans and Armenians counted more than 1,000 persons each. For further details see news release of Statistics Estonia http://www.stat.ee/64310?parent_id=39113.

Housing Census, the share of persons with undetermined citizenship has thus decreased from 12.4% to 6.5%, and stands at about 85,000 persons.

22. The number of persons declaring themselves as Russian, Ukrainian, Belarusian, Finnish, Tatar, Latvian, Polish, Jewish, Lithuanian, German and Armenian has decreased in comparison with the figures collected through the 2000 census, showing a continuation of the trend already observed in the last two decades. In contrast, Georgians, Azerbaijanis and Swedes showed somewhat increased numbers.

23. The Advisory Committee deeply regrets to note that the answer to the question on ethnic origin, unlike the one on religious affiliation, was mandatory and that there was no possibility for indication of multiple ethnic identities. This is highly surprising given the extent of detail on native-born and foreign-born population, for whom sub-categories of first, second and third generation foreign origin were collected. Furthermore, the instruction for census enumerators clearly indicated that “in households where father and mother belong to different ethnicities and have difficulties deciding the ethnicity of children, the ethnicity of the mother should be preferred”⁸. Such an approach is contrary to the Conference of European Statisticians Recommendations for the 2010 Censuses of Population and Housing⁹, it shows arbitrary disregard for gender equality and it infringes on the right to free self-identification of persons belonging to national minorities as provided by Article 3 of the Framework Convention. Moreover, this arbitrariness could have been avoided by allowing for declaration of multiple ethnic affiliations. Given these shortcomings, the Advisory Committee considers that population statistics should be complemented with information gathered through independent research, and should be carefully analysed in consultation with minority representatives, in particular when using statistics as the basis for application of minority rights, as stemming from the Framework Convention.

Recommendations

24. The Advisory Committee calls on the authorities to gather population statistics regularly and to engage with minority representatives in analysing the results, particularly where they are used for the application of minority rights.

25. The Advisory Committee further calls on the authorities to ensure that in all data collection exercises the right to free self-identification is ensured and calls on the authorities to allow also for a declaration of more than one ethnic affiliation or a combination of ethnic affiliations in future exercises and to present them as such.

⁸ See web-site of Statistics Estonia, <http://www.stat.ee/59027>

⁹ Conference of European Statisticians Recommendations for the 2010 Censuses of Population and Housing, prepared in co-operation with the Statistical Office of the European Communities (EUROSTAT) and the United Nations Economic Commission for Europe, paragraph 426: “respondents should be free to indicate more than one ethnic affiliation or a combination of ethnic affiliations if they wish so”.

Article 4 of the Framework Convention

Anti-discrimination legislation and its implementation

Present situation

26. The Advisory Committee recalls that the Equal Treatment Act adopted in 2008 provides protection from discrimination on the grounds of nationality, race, colour, religion or other beliefs, age, disability and sexual orientation, but not citizenship. The act explicitly excludes official linguistic requirements for public officials as possible grounds for discrimination. The Advisory Committee notes that the Office of the Gender Equality and Equal Treatment Commissioner has been tasked with providing advice and assisting persons filing complaints regarding discrimination, as well as with providing non-binding opinions concerning alleged cases of discrimination. Regrettably, the Commissioner's powers continue to be curtailed to responding to complaints or drafting general reports, without the possibility of instigating legal proceedings or providing an on-going monitoring of implementation of legislation.

27. The Advisory Committee notes that in spite of the fact that the Office of the Commissioner has been established in 2009, the number of cases has been low. The Advisory Committee notes that in 2013 only four cases lodged with the Commissioner alleged discrimination on grounds of nationality or race. In one of these cases the Commissioner established that indeed the applicant was discriminated against on the ground of his nationality. Regrettably, the case involving the Ministry of Foreign Affairs of Estonia has shown the full extent of the limits of the Commissioner's power, as her opinion was disregarded by the administrative entity in question (for further details see under Article 15).

28. The Advisory Committee notes with concern that the Office of the Gender Equality and Equal Treatment Commissioner remains seriously under-resourced in staff and financially. Although some programme-based foreign funding was put at the disposal of the Commissioner in 2012, it was earmarked to promote only one area of her activity (gender equality).

29. There have been no changes to the legislation regulating the functions and activities of the Chancellor of Justice. The Chancellor conducts constitutional review of legislation, acts as Ombudsman and can initiate court proceedings against any legal entity governed by public law. In cases involving only private parties he may act as a mediator and propose conciliation proceedings between the victim and the alleged perpetrator of discrimination. It has to be noted however that such conciliation proceedings are voluntary and both parties to the dispute must be in agreement to initiate them. This seems to provide an explanation why the conciliation procedure was used only once in 2014.

30. In 2013, the last year for which information is available, the Chancellor received 168 applications in his capacity as the Ombudsman, of which 39 alleged discrimination. The Advisory Committee notes that 12 per cent of the applications were submitted in Russian.

31. The information on awareness-raising and training activities conducted by the Chancellor of Justice among society as well as relevant public services, in particular law enforcement, with the aim of increasing awareness of the legal remedies available for protection against discrimination, and more broadly - on his mandate - is welcome. The Committee further welcomes the information that, with the assistance of the Chancellor, the Council of Europe "Manual for Human Rights Education with Young

People - Compass” is currently being translated into Estonian and will be broadly distributed to Estonian schools.

Recommendations

32. The Advisory Committee calls on the authorities to provide adequate human and financial resources to the Office of the Gender Equality and Equal Treatment Commissioner to enable it to provide effective advice and support to victims of discrimination throughout the country. It reiterates its call on the authorities to consider broadening the powers of the Commissioner so that she can act more effectively against discrimination affecting persons belonging to national minorities.

33. The Advisory Committee calls on the authorities to ensure through targeted measures that awareness of the Chancellor of Justice and his mandate are enhanced within the broader population, including among persons belonging to national minorities.

Article 5 of the Framework Convention

Support for national minority cultures

Present situation

34. The Advisory Committee notes that the Ministry of Culture, the Ministry of Education and Research, the Integration and Migration Foundation “Our People”, the Folk Culture Centre, the Cultural Endowment of Estonia and local authorities provide some support to cultural activities of national minorities. It notes however that the Department of Cultural Diversity at the Ministry of Culture, which is the principal interlocutor of national minorities in cultural matters, employs 6 staff members,¹⁰ and that its share of the Ministry’s total budget is 2.2 per cent.

35. Following a two-year consultation period during which national minority NGOs and co-operation partners were consulted at six seminars in Tallinn, Tartu and Ida-Viru County, a new policy document on “Fundamentals of Cultural Policy up to 2020” was approved by the government in November 2013. The document establishes the principles governing the country’s cultural policy as well as priorities in all relevant areas, including among others: performance art, cinematography, music, literature and publishing, fine arts, cultural diversity, protection of national heritage, museums, libraries and folk culture. The Advisory Committee notes however that this document has not yet received the final approval of the Parliament.

36. The support offered by the Ministry of Culture and local authorities to cultural activities of national minorities continues to be project-driven and consists of indirect support to amateur cultural groups and non-profit organisations. The outreach and impact of cultural projects offered by these non-professional players remain however limited, given their small size and lack of long-term financial stability. On the positive side, the Russian Drama Theatre, whose performances are shown with Estonian subtitles, and the yearly Slavonic Song Festival reach out beyond the Russian-speaking minorities and increase awareness among the majority population of the existing cultural diversity of the country.

¹⁰ See Council of Europe/ERICarts: "Compendium of Cultural Policies and Trends in Europe", 15th edition, 2014.

37. An exhibition entitled "We, the Roma" prepared jointly by the Estonian National Museum and Roma civil society representatives opened in October 2013 at the Valga County Museum and travelled in 2014 to locations all over Estonia. The exhibition aimed to highlight the uniqueness of the Roma, their rich cultural diversity and to dispel stereotypical views within society.

38. The Advisory Committee notes that the Law on Cultural Autonomy of National Minorities of 1993 provides for the establishment of Cultural Autonomy Bodies to be elected by citizens who have registered as belonging to the relevant minority group, provided that the population of that minority is over 3,000 persons. The law further specifies that such national minority cultural autonomy may be established by persons belonging to German, Russian, Swedish and Jewish minorities. Implementing legislation adopted in 2003 extended the applicability of the Law to the Ingrian-Finnish minority. The Advisory Committee notes that only two groups covered by this legislation, namely the Swedish and the Ingrian-Finnish established such Cultural Councils and receive some funding from the Ministry of Culture. More than 20 years after its adoption, the Act which, in the absence of any other genuine consultative bodies involving national minorities at national level (see also below Article 15), contains the only provisions allowing for national minorities to have their interests represented in officially recognised structures by democratically elected representatives, remains a dead letter. The German, Swedish and Jewish minorities no longer meet the numerical criteria, whereas the Belarusian and Ukrainian minorities were never covered by the Law in spite of meeting the numerical criteria.

39. The situation is most preoccupying as regards the Russian minority. Numerous attempts were made in the last 18 years to establish the Russian Cultural Council. The NGO *Vene Kultuuriautonoomia* (Russian Cultural Autonomy) applied to the Ministry of Culture in March 2006 to initiate the process of creation of the Russian Cultural Council. This application was dismissed and court proceedings appealing this decision have been on-going since then. As no final binding decision has been made on the initial application, which has been pending since 2010 before the Supreme Court, another application by the NGO Foundation Endowment for Russian Culture submitted to the Ministry of Culture in 2009 has been put on hold. The Advisory Committee finds unconvincing the argument advanced by the Estonian authorities, for example contained in the Directive of the Minister of Culture N° 69/2009 that the applicant NGO *Vene Kultuuriautonoomia* does not represent the Russian minority. The fact that the executive organs have failed to facilitate the creation of the Russian Cultural Council, in line with the legislation, points to the lack of political will, which is aggravated by the failure of the judicial system to rule on the case. This is incompatible with Article 5 of the Framework Convention.

40. The Advisory Committee also notes with regret that an inter-ministerial working group consisting of representatives of the Ministry of Justice, the Ministry of Culture and representatives of the Riigikogu (Estonian Parliament), established in 2011 to propose amendments to the Law on Cultural Autonomy of National Minorities with a view to eliminating practical obstacles to the functioning of cultural autonomies, has thus far failed to make proposals.

Recommendations

41. The Advisory Committee calls on the authorities to facilitate the process of the establishment of Cultural Councils by all the relevant minority groups, in particular the Russian minority, and to proceed with the review of the existing legislation with a view to covering all relevant groups, clarifying the functions of the Councils and making the procedure to establish a Cultural Council fast and transparent.

42. The Advisory Committee also asks the authorities to ensure the involvement of minority representatives in the decision-making processes on the allocation of funds to cultural projects, and to ensure that all relevant groups are provided with the necessary funds to maintain the essential elements of their culture.

Article 6 of the Framework Convention

Integration efforts

Present situation

43. The Advisory Committee is pleased to note that the Estonian authorities have continued their efforts to promote integration of society, based on the understanding that it is a two-way process and affects society as a whole. Significant financial resources were allocated for the implementation of the Estonian Integration Strategy 2008-2013. Representatives of national minorities and of civil society indicated however that the main, if not exclusive, focus of the successive strategies remained the promotion of proficiency in the Estonian language as the main tool for integration and the symbol of common statehood and loyalty to the state. While reaffirming its acknowledgement of the importance of a common state language and the necessity of support for it, the Advisory Committee notes that as a result of greatly increased proficiency in the state language among persons whose first language is not Estonian, language no longer constitutes the main obstacle to integration as applicable to national minorities. In this context, the Committee notes that Russianspeaking persons belonging to national minorities successfully participate in many areas such as education and social life of the country, although it has to be noted that the unemployment rate among them is still significantly higher than the average (see also under Article 15). One major area where the integration process has been slow is the participation on equal footing in democratic life of the State¹¹. This view has been shared by the representatives of national minorities, during the visit of the delegation.

44. The Integration Strategy 2008-2013 has been implemented only partially. The Estonian authorities' own assessment of the Strategy's achievements is that while objectives in the areas of culture and political integration have been achieved, those pertaining to social and economic integration and educational integration were achieved only in part¹². The Advisory Committee notes that this strategy, which was adopted in 2008 to address the falling number of persons belonging to national minorities seeking naturalisation, sought essentially to increase the Estonian language proficiency of Russian speakers. There has been significant progress towards the achievement of this goal. However, other aspects of integration of society in particular as regards participation of all in public life, require further efforts.

45. The Advisory Committee notes with satisfaction that the new strategy "Integrating Estonia 2020", adopted in December 2014, and prepared on the basis of wide consultations with the target group representatives, integration specialists and the representatives of public authorities, is focused to a greater degree on supporting initiatives to encourage active participation of all segments within society and aims to develop a more tolerant and open society. The integration strategy focuses on more

¹¹ See also <http://www.mipex.eu/estonia>

¹² Report of the Government of the Republic pursuant to § 8 of Government Regulation No. 302 of 13 December 2005 (Summary of the implementation results of "Integration Strategy 2008–2013")

equal access to work, education and culture, as well as intercultural contacts with other members of society, regardless of their linguistic or cultural background. The implementation plan to a greater degree than under the previous strategies targets the education system and youth work, and includes measures to assist with the development of civil society targeting also employment issues. The Advisory Committee notes that, although acquisition and proficiency in the Estonian language including immersion courses will be continued, the Strategy will equally support cultural institutions such as museums, theatres and music institutions with the aim of enabling them to offer their programme in a bilingual format or in different language versions.

46. Last, but not least, the Advisory Committee notes that a budget of over 42 million euros, of which 10 million to be allocated by the European Social Fund, has been approved for the implementation of the activities covered by the Strategy.

Recommendations

47. The Advisory Committee encourages the authorities to continue with their efforts to promote the integration of society as a two way process, in particular encouraging active participation of all segments within society in all relevant fields, such as equal employment, education and culture, and promote intercultural contacts with other members of society, beyond the promotion of proficiency in the Estonian language.

48. The Advisory Committee asks the authorities to monitor the implementation of the Strategy “Integrating Estonia 2020”, in close consultation with national minority representatives to ensure that the objectives are successively attained and the Strategy adapted to meet the evolving concerns and priorities. Ensure that initiatives carried out under the integration Strategy will be carried out in a manner that will promote and protect minority cultures as an essential part of the Estonian society.

Ethnically motivated crime and hate speech

Present situation

49. The Advisory Committee notes that currently there are no reliable statistics on crimes according to the motives of the perpetrator. Although the database used by the police for registering criminal incidents allows for classifying motives of a crime, there is no obligation for the police officers to use this classification system. In this context, the Advisory Committee notes that both the authorities and the human rights NGOs concur that the number of racially or ethnically motivated incidents remains low¹³.

50. There have been no changes to Article 151 of the Penal Code¹⁴ as regards limits to criminal liability to cases of incitement to hatred on various grounds, to acts that result in danger to the life,

¹³ The Legal Information Centre for Human Rights registers 3–5 incidents per year.

¹⁴ § 151. Incitement of hatred:

(1) Activities which publicly incite to hatred, violence or discrimination on the basis of nationality, race, colour, sex, language, origin, religion, sexual orientation, political opinion, or financial or social status if this results in danger to the life, health or property of a person are punishable by a fine of up to 300 fine units or by detention.

health or property of a person. This limitation excludes the investigation into hate speech in the media or the Internet, unless serious consequences have ensued. Furthermore, the Advisory Committee notes with deep concern that although Article 58.1 of the Criminal Code, which enumerates the aggravating factors in the perpetration of any crime, was amended on 26 February 2014 and new grounds have been added, racist or ethnically based motivations were not among them. Although the authorities maintain that “other base motives” included in the list of aggravating factors cover racist or ethnically based motivation, the Advisory Committee notes that according to information at its disposal there have been no cases where racist or ethnically based motivations were invoked in court and impacted on sentencing.

Recommendations

51. The Advisory Committee reiterates its call on the authorities to reconsider the limitation of the applicability of Article 151 of the Penal Code, which curtails the investigation and prosecution of hate crimes in Estonia, and strongly recommends to incriminate and punish expressly racist and ethnically-based motivation as an aggravating circumstance in any offence.

52. The Advisory Committee also encourages the authorities again to establish a data collection system which would record the number of racist or ethnically motivated crimes and incidences of hate speech.

Promotion of full and effective equality of Roma

Present situation

53. The progress achieved under the National Action Plan for Roma Inclusion, which was adopted in 2011 within the EU Framework for National Roma Integration Strategies up to 2020, has been evaluated in 2014 by the European Commission. Although some progress has been achieved in all the four key areas of education, employment, healthcare and housing, as well as in the fight against discrimination, the Commission pointed out that in every area measures needed to be reinforced within a systematic approach. It further noted that a constructive dialogue with Roma organisations, civil society and close co-operation with local and regional authorities needed to be ensured to guarantee the achievement of the goals of the Strategy.

54. The authorities have taken concrete steps to increase awareness and acceptance of the Roma within the majority population and to combat prejudice against the small Roma community in Estonia. Following the unveiling of the Memorial of the Estonian Roma Holocaust at Kalevi Liiva in May 2007, the topic of the genocide of the Roma, together with the Holocaust has been given a more prominent place in history textbooks in the context of World War II and the wartime crimes against Humanity and in the national basic school and secondary school curricula, effective as of 2014 (see also under Article 12).

(2) The same act, if: 1) if it causes the death of a person or results in damage to health or other serious consequences; or 2) it was committed by a person who has previously been punished by such act; or 3) the act is committed by a criminal organisation, is punishable by a pecuniary punishment or up to 3 years' imprisonment.

(3) An act provided for in subsection (1) of this section, if committed by a legal person, is punishable by a fine of up to 3200 euros. [RT I 2010, 22, 108 - entry into force 01.01.2011].

(4) An act provided for in subsection (2) of this section, if committed by a legal person, is punishable by a pecuniary punishment. [RT I 2006, 31, 234 - entry into force 16.07.2006].

Recommendation

55. The Advisory Committee invites the authorities to intensify, in consultation with representatives of the Roma communities, the implementation of measures to combat discrimination against the Roma and promote their full and effective equality in all areas.

Article 9 of the Framework Convention**Minority language media***Present situation*

56. The Advisory Committee notes that the Estonian Public Broadcasting organisation (ERR), established in 2007, following the merger of the Estonian Television and Estonian Radio is currently made up of two television and five radio channels and several news and thematic portals. Compared to 2009 the volume of Russian-language programmes broadcast by the public television channels, including programmes with subtitles, has increased by 30%, amounting to 520 hours a year, which is welcome. The main Russian-language programme, *Aktuaalne Kaamera* which is a news programme produced by ETV2, is broadcast in prime time and reaches nearly 30,000 viewers daily. Cultural programmes, such as weekly “*Op!*”, “*Batareja*” and daily Cultural news continue to be aired on the television and radio channels. The Raadio 4 channel broadcasts diverse programmes which include shows on a wide range of subjects as well as music. In addition to shows in Russian, Raadio 4 also broadcasts shows in Polish, Georgian, Ukrainian, Armenian, Belarusian, Azerbaijani and Hebrew on a regular basis.

57. As regards the Russian-language print media, there are four newspapers published: *Postimees* (appearing three times a week), weekly newspapers *Den za Dnjom*, *Moskovski Komsomolets - Estonia* and *Delovye Vedomosti*. The *Komsomolskaya Pravda v Baltii* paper printed in Tallinn is distributed in Estonia, Latvia and Finland. The circulation of the papers remains between 5,000 and 12,000. In addition, the Committee notes that regional papers are printed throughout Estonia, including Tallinn-based *Stolitsa*, *Narvskaya Gazeta*, *Narva*, *Gorod*, *Viru Prospekt*, *Severnoye Poberežje* and *Severnoye Poberežje Ekstra*, *Sillamyäeski Vestnik*, *Panorama*, *Infopress* in Ida-Viru County and *Tshudskoye Poberežje* in Jõgeva County.

58. The Advisory Committee notes with regret that the media environment remains deeply divided among linguistic lines, with different segments consuming different media, which not only differ in language, but also in cultural, political and ideological outlooks. In this context, the Advisory Committee observes that according to a large study carried out by the Institute of International and Social Studies at Tallinn University in 2013¹⁵, the Estonian language media are perceived by persons whose first language is Russian as addressing a narrowly defined audience, which excludes minorities, producing disunity of society and instigating ethnic conflicts - both by disproportionate representation of minorities and depicting Russia only as a source of conflict. The problem is exacerbated by a large and often overbearing presence of foreign channels, which exert strong influence on some parts of the public opinion in Estonia, in particular the Russian-speakers. Consequently, the division of society continues to persist and impact on its cohesion and integration.

¹⁵ A Study of Social Groups in Integration, Tallinn 2013, p. 15:

<http://www.tlu.ee/UserFiles/Rahvusvaheliste%20ja%20Sotsiaaluuringute%20Instituut/Repositoorium/2013/SummpCpAbj5gB1.pdf>

59. In this context, information on the beginning of broadcasting in January 2015 of a news programme AK+, a new long-form addition to the Russian-language version of the *Aktuaalne Kaamera* TV news broadcast, and the decision to launch a new publicly funded Russian-language TV channel to operate under the auspices of the ERR umbrella is most welcome. The Advisory Committee wishes to stress the importance of involving Russian-speakers in the conceptualisation, elaboration, preparation and journalistic delivery of the programme.

60. Finally, the Advisory Committee regrets to note that there has been no change as regards the obligation¹⁶ to provide translation of ‘foreign languages’, including minority languages, broadcasts into Estonian, with the failure to provide such translation being punishable by a fine of up to 3,200 Euros. The Advisory Committee reiterates its concern expressed in the previous opinions that the overly prescriptive approach used to promote the Estonian language in public is not proportionate to the legitimate aim of protecting the Estonian language and of making the broadcasts accessible to a wider audience.

Recommendations

61. The Advisory Committee reiterates its recommendation made in the last Opinion and asks the authorities to increase their efforts to promote Russian-language radio and TV broadcasts, particularly as regards the promotion of locally-produced news.

62. The Advisory Committee asks the authorities again to reconsider their rigid approach to the translation requirements of the media and develop, in close consultation with minority representatives and media professionals, more appropriate means to ensure that Estonian and non-Estonian speaking groups of society can benefit from a diverse but shared media space.

Article 10 of the Framework Convention

Use of minority languages in contacts with local administrative authorities

Present situation

63. Estonia has been at the forefront of the electronic communication and the websites of the public bodies provide information to the public in Estonian but also in English and Russian languages. Data collected during the census of 2011 indicates that Estonian is the most common first language, spoken by 68.5 percent of the population, followed by Russian spoken as a first language by 29.6 percent of the population. The Advisory Committee notes that strong legislative provisions and policies designed to protect the Estonian language and to guarantee its pre-eminence in all areas of public life, despite the multilingual makeup of Estonian society, remain cornerstones of public policy in

¹⁶ See Language Act of 23 February 2011, § 18 as amended on 1 July 2013 « Upon public performance and transmission of audio visual works, including programmes and advertisements the provider of the audio visual media service or a company shall ensure that a foreign language text shall be accompanied by an adequate translation into Estonian in form and content. », § 34 « (1) The absence of an Estonian translation when making audio-visual works in a foreign language available to public, transmission of foreign language programmes of television stations or parts in a foreign language of radio programmes in the Estonian language is punishable by a fine of up to 300 fine units. (2) The same act, if committed by a legal person, is punishable by a fine of up to 3,200 euros. »

Estonia. The Language Act adopted in February 2011 to replace and clarify an earlier Act of 1995 continues to define linguistic policies in all areas of public life.

64. The Advisory Committee notes that § 9 of the Act regulates the right to use a national minority language in contacts with local public administration¹⁷, which in practice applies only to the Russian language. The Advisory Committee is disconcerted to note, again, that the threshold of 50 per cent of residents required to activate the clause is prohibitively high, does not correspond to the standards established in this area and is not compatible with the Framework Convention.¹⁸ The Advisory Committee notes however that in oral communication, “foreign languages”, including national minority languages may be used with the agreement of both parties of the conversation. This provision, which is a clear recognition by the legislator of the existing linguistic reality, is to be welcomed.

65. In practice, the use of the Russian language varies depending on the local authority. In municipalities located in the Harju County (Maardu) and Ida-Virumaa County inhabited by a large number of persons belonging to the Russian minority, municipal employees and officials, who often themselves are Russian speakers, communicate with persons belonging to national minorities in that language. The Advisory Committee regrets that the State report does not provide a more detailed account on the number of municipalities where the legal provision on the use of a national minority language in contacts with local public administration is applied and on the modalities used.

66. The enforcement of the Act has been delegated to the Language Inspectorate, which has been given broad competences including checking the level of language proficiency of employees, requiring that persons concerned take the Estonian language proficiency examination, recommending termination of employment contracts of employees or civil servants whose Estonian language proficiency does not meet the required standard, and issuing fines for breaches of the provisions of the Act. The Inspectorate identified 1,961 violations of the Language Act and fined 208 persons in 2011 and in 2012 found 2,171 violations and fined 176 persons. The average fine amounted to 56 Euro. The Advisory Committee reiterates its concern about this penalising approach, which is not conducive to creating a positive climate around learning Estonian; the authorities’ efforts should rather focus on ensuring that sufficient, quality Estonian language classes are available and affordable.

67. The Advisory Committee reiterates its view expressed in the previous Opinions that, given that the State language has been securely established as a common language of communication in the public sector and in light of the fact that the number of persons not speaking Estonian has greatly diminished, the justification for the severity in approach to language matters as displayed by the Language Inspectorate is doubtful¹⁹. Its actions may in fact be counterproductive by alienating those segments of population in Estonia which are mostly concerned by the goals promoted by the Integration Strategy. In this context the Advisory Committee also notes that Estonia has not signed the

¹⁷ Language Act § 9 (1) In local governments where at least half of the permanent residents belong to a national minority, everyone has the right to approach state agencies operating in the territory of the corresponding local government and the corresponding local government authorities and receive from the agencies and the officials and employees thereof the responses in the language of the national minority beside responses in Estonian.

¹⁸ See Advisory Committee’s Third Thematic Commentary « On linguistic rights » § 57.

<https://rm.coe.int/CoERMPublicCommonSearchServices/DisplayDCTMContent?documentId=09000016800c108d>

¹⁹ The authorities seem to be aware of the severity of the situation. In December 2013 the Government of the Republic submitted to the Parliament (Riigikogu) a draft act on the amendment of the Penal Code and other Acts in connection therewith, which, inter alia, proposes to make the punishments imposed on the basis of the Language Act more lenient.

European Charter for Regional or Minority Languages, a specific legal instrument designed for the protection and promotion of the wealth and diversity of Europe's linguistic heritage.

Recommendations

68. The Advisory Committee reiterates its call on the authorities to ensure that persons belonging to national minorities, in areas where they reside traditionally or in substantial numbers, have the effective possibility to use their minority language in relations with local authorities, in writing and orally. It further strongly urges the authorities to lower the threshold of 50 percent of residents required to activate the legal clause on the use of minority language.

69. The Advisory Committee asks the authorities to ensure that the Language Act is implemented in a flexible way, taking into account the linguistic rights of persons belonging to national minorities. It repeats its call that the competent authorities refrain from imposing fines for violations of the Language Act and replace the penalising approach with a policy of positive incentives.

70. Finally, the Advisory Committee invites the authorities to consider signing and ratifying the European Charter for Regional or Minority Languages.

Article 11 of the Framework Convention

Display of traditional local names, street names and other topographical indications

Present situation

71. The Advisory Committee notes with regret that no significant developments have taken place since the adoption of the previous Opinion. In accordance with the Place Names Act of 2004 topographical indications in minority languages may be introduced at the request of local authorities with the agreement of the Minister of Interior (which remains a dead letter of the law as no applications have been made) or in a simplified procedure "within the territory of a settlement of which the majority of the residents were non-Estonian speakers as of 27 September 1939"²⁰ and where the non-Estonian name may be established as the principal name pursuant to subsections 11 (3) and (4) of the Place Names Act (i.e. for historically and culturally justified reasons). A number of settlements in particular on the Vormsi and Ruhnu Islands and in Noarootsi Municipality have made use of the right to display topographical indications in Swedish. The said legislative provisions could apply equally to Alajõe, Kasepää, Peipsiääre and Piirissaare rural municipalities located on the shores of the Lake Peipus, where all villages are entitled to use the Russian language in topographical indications. The Advisory Committee notes with regret that in practice no signs in the Russian language have been used.

72. The Advisory Committee would like to point out in this context that reference to the linguistic situation of 75 years ago is anachronistic and does not correspond to the modern day context. Even if fully applied, the Place Names Act does limit the possibility to display signs in languages of national

²⁰ Place Names Act of 2004 § 6. Organisation of establishment of place names "(6) In order to establish a non-Estonian place name, the local government shall seek the consent of the Minister of Internal Affairs. The Minister of Internal Affairs shall make a decision after he or she has sought the opinion of the Place Names Board. It is not necessary to observe the specified procedure for obtaining approval if the named feature with a non-Estonian place name is located within the territory of a settlement of which the majority of the residents were non-Estonian speakers as at 27 September 1939".

minorities to small settlements and villages in spite of the fact that the majority of persons belonging to minorities reside in cities. The Advisory Committee wishes to point out that in its Commentary on Linguistic Rights it recommended that “authorities should interpret and apply legislation in a flexible manner without relying too strictly on the threshold requirement”²¹.

73. During the visit to Narva, the Advisory Committee observed a complete absence of Russian language street signs and other topographical indications, notwithstanding the fact that an overwhelming majority of the population of the town is Russian-speaking. In this context the Advisory Committee notes with regret that the absence of Russian language signs demonstrates that, despite significant efforts to promote integration, no practical steps are taken to promote social cohesion and reduce separation based on ethnicity and language barriers.

Recommendation

74. The Advisory Committee calls again on the authorities to expand the opportunities to introduce minority language place names in line with the principles contained in Article 11 of the Framework Convention, and allow topographical indications in minority languages, alongside Estonian.

Recording of Patronyms

Present situation

75. There have been no significant developments, including legislative developments as regards modalities for the use of personal names containing patronyms. As observed in the previous Opinions, Estonian legislation provides for recording a person’s official name consisting of a forename and a surname, without the possibility of a patronym being entered in personal identity documents. Consequently there is no legally secured right to use one’s surname (patronym) in the minority language, as provided for in the Framework Convention.

Recommendation

76. The Advisory Committee reiterates its previous recommendation to seek appropriate legislative solutions for the registration of patronyms in official personal documents, in consultation with persons belonging to national minorities.

Article 12 of the Framework Convention

**Equal opportunities in access to education for persons belonging to national minorities
and intercultural dialogue**

Present situation

77. The situation as regards education has not altered significantly since the last Opinion. The Estonian school environment continues to be divided between Estonian and Russian-language schools and there has been no encouragement for creating bilingual classes that could bring together pupils

²¹ See Advisory Committee’s Third Thematic Commentary « On linguistic rights » § 66
<https://rm.coe.int/CoERMPublicCommonSearchServices/DisplayDCTMContent?documentId=09000016800c108d>.

from different language backgrounds and enable them to learn both languages while promoting inter-ethnic contacts and networks and thereby contributing to the aim of the Estonian Government to create a more cohesive and integrated society. In this context, it has to be noted that there is a great interest among children (and their parents) for learning the Russian language, as about 60 per cent of children in Estonian language schools opt to learn Russian as a foreign language.

78. The Advisory Committee notes the information about the monitoring together with the North Estonian Roma Association of the number of Roma children in Estonian schools and their specific needs as regards educational support²², carried out by the Ministry of Education and Research.

79. The Committee notes that preschool education which includes Estonian language learning will be provided to all children at least one year before school. The Advisory Committee welcomes this approach, which is essential to provide a fairer start for children whose first language is not Estonian at the beginning of their schooling.

80. The Advisory Committee notes with satisfaction that the “Integrating Estonia 2020” strategy, adopted in 2014, follows up on the earlier Integration Strategies and assigns an essential role to the education system in supporting social cohesion, strengthening the feeling of belonging of all components of the Estonian society, including persons belonging to national minorities, in particular by creating opportunities for cross-cultural communication and greater understanding of other cultures among the various ethnic groups. In order to enhance multicultural competencies among students, school curricula have been developed aiming to promote a positive and respectful attitude towards cultural diversity in Estonia; enhance skills of effective cross-cultural communication and culture-centred education while basing pedagogical activities on a humanistic approach and effective pedagogical interaction.

81. As regards cross-cultural communication, understanding and respect for other cultures, the Advisory Committee notes with regret that no arrangements exist to facilitate observance of Christmas celebrated by Orthodox believers according to the Julian calendar, and which falls on 7 January according to the Gregorian calendar. This is particularly problematic for children of school age who cannot take a day off on that day. The Chancellor of Justice who was petitioned in March 2014 by the Legal Information Centre for Human Rights on behalf of the Orthodox applicants declined to take any action. The Advisory Committee notes however, that school directors may use their discretionary powers to declare within their establishments holidays on such day.

82. The revision of the national basic school and secondary school curricula, with the view of giving a more prominent place in the context of World War II to the topic of the Holocaust and other wartime crimes against humanity is welcome. The Advisory Committee notes especially efforts to re-examine Estonian modern history, in particular with regard to World War II. It reiterates that these efforts should aim to ensure that schools, when teaching history, promote respect for all groups in society and that multiple perspectives are encouraged in historical research.

Recommendation

²² The Estonian Education Information System identified 32 pupils of Roma origin.

83. The Advisory Committee reiterates its call on the authorities to consider the introduction of bilingual classes and schools for Estonian as well as for Russian-speaking pupils, while ensuring that the specific pedagogical skills and tools are developed and used and that appropriate teacher training is available to all teachers.

84. The authorities are encouraged to continue their efforts aimed at promoting mutual respect and intercultural dialogue in the field of education, including by creating adequate opportunities for bringing together pupils from different language backgrounds.

85. The Advisory Committee encourages the authorities to adopt a more flexible approach to the question of religious holidays, in consultation with those concerned, which would demonstrate sensibility to religious sentiments of the Orthodox believers.

Article 14 of the Framework Convention

Minority languages in secondary education

Present situation

86. The Advisory Committee notes that in the last seven years Russian-language schools in Estonia increased teaching of courses in Estonian language with the aim of reaching 60 percent of the curriculum to be dispensed in Estonian. As of the academic year 2013/2014 five compulsory courses (Estonian literature, music, civic education, history and geography of Estonia) are taught in Estonian with elective courses added to meet the required threshold. The authorities have undertaken significant efforts to improve the language proficiency of teachers who teach subjects in Estonian in Russian-language schools. According to the Estonian Education Information System (EEIS), in the 2013/2014 academic year, in the 57 Russian-language upper secondary schools, of the 788 teachers who taught different subjects in Estonian, the share of teachers who had command of the Estonian language at least at C1 level was 93 per cent.

87. In this context the Advisory Committee notes also that free of charge courses in Estonian language at C1 level are available for teachers who teach in Estonian in Russian-language schools. It notes that teachers with intermediate level of proficiency in Estonian language (B2) can continue to teach in Russian in accordance with the school curriculum.

88. The transition to Estonian language of instruction has brought about some difficulties and problems for the schools, teachers and children alike. The Advisory Committee notes with concern that the obligation to adhere precisely to the 60:40 ratio has made some schools sacrifice their specific profile and choose optional and elective subjects according to the possibility of hiring teachers able to teach in Estonian and not in keeping with the school's specificity. This problem is particularly acute in vocational schools. In addition, the teaching manuals and other materials, which have been developed for students whose first language is Estonian, are not adapted to national minority students who in addition to the subject matter have to struggle to comprehend the medium in which it is presented. Another problem is caused by the fact that some teachers, who in principle have the required C1 level command of the Estonian language (or, for 7 per cent of them, have acquired an intermediate level of proficiency - B2), are not capable of delivering their lessons in a comprehensible way. Reportedly, some young persons belonging to national minorities, who are otherwise motivated to learn Estonian,

have also expressed their perception of being discriminated and humiliated by the transfer to 60% teaching in Estonian. Finally, according to the assessment²³ carried out by the authorities themselves, the aim of the teaching process has become less concerned with acquisition of knowledge and learning colloquial and conversational Estonian, instead focusing on preparing for passing university entry tests in the Estonian language.

89. Notwithstanding the above, the Advisory Committee notes that according to a major international study focused on mathematics, reading, science and problem-solving, conducted in 2012 under the OECD Programme for International Student Assessment (PISA), Estonian schools combine high levels of performance with equity in education opportunities. The results of the study indicate also small variations in student scores, proving that high performance is possible for all students.

90. The manner in which national examinations are carried out is also problematic for children whose first language is not Estonian. The requirement to pass an English language exam at the same level of difficulty as all other students is perceived as unfair, given that there are less hours of instruction of that subject in Russian-language schools. This also has the effect that unlike their Estonian counterparts, Russian-language students have to pass two compulsory examinations in languages other than their first language.

Recommendations

91. The Advisory Committee strongly recommends that the authorities monitor in consultation with persons belonging to national minorities and taking into account their interests, the implementation of the requirement of teaching of 60 per cent of the study workload in Estonian in the Russian-language schools, with the view of introducing the required flexibility into the system. It further recommends that the authorities ensure that the range of subjects taught in minority language schools, including in particular the vocational ones, generally is not undermined by a lack of qualified teachers capable of teaching specialist subjects in Estonian.

92. The Advisory Committee further calls on the authorities to ensure that education materials in sufficient quantity and quality are available in minority language schools and teachers are adequately trained, including as regards the teaching of non-philological subjects in minority languages.

Article 15 of the Framework Convention

Consultative bodies and participation in public affairs

Present situation

93. The Advisory Committee notes with regret that the situation has not improved since the previous monitoring cycle and no steps have been taken to consolidate the role of consultative bodies representing national minorities. The abolition of the consultative Presidential Round-Table in 2008 was followed by a short lived Estonian Cooperation Assembly (EKK) established in 2009, only to be

²³ Report « About Efficiency of Studies in Russian-medium Upper Secondary Schools Upon Transition to Upper Secondary School Studies in Estonian (At Least 60% of Compulsory Courses) » prepared for the Minister of Education and Research, Tallinn, 18 September 2014.

abolished in 2011. Currently, there exists no body at the national level to represent interests of persons belonging to national minorities. The only option theoretically open to some minority groups, including the Russian minority, is the establishment of a Cultural Autonomy Body (Cultural Council) provided for by the Law on Cultural Autonomy of National Minorities of 1993. Regrettably, all attempts to create the Russian Cultural Council undertaken repeatedly by minority representatives since 1996 have failed (see related comment under Article 5).

94. The Advisory Committee notes that mainstream political parties address national minorities' concerns in their programmes and that a number of members of Parliament (Riigikogu) elected in March 2015 are associated with a national minority. However, notwithstanding the authorities' efforts to facilitate the acquisition of citizenship by stateless persons and noting that such persons have mostly the same rights as citizens, except the right to stand in any election, vote in parliamentary elections or to establish or join a political party, the Advisory Committee notes with regret that still a considerable number of Estonia's inhabitants do not enjoy full political rights and cannot participate actively in relevant decision-making processes (see also under Article 3).

95. The Advisory Committee acknowledges the positive role played by the National Minorities Cultural Advisory Council (NMCAC) established under the aegis of the Ministry of Culture. This does however not obscure the fact that the NMCAC cannot be considered a genuine consultation mechanism as its focus appears to be oriented mainly towards the development and discussion of new cultural projects rather than the drafting and approval of long-term policies, programmes and legislation affecting minorities in a broader sense.

96. At the local level, some consultative bodies such as the Roundtable of National Cultural Societies organised by the Ida-Viru County Governor (since 1994), Tallinn Home Peace Forum organised by Tallinn City Government (since 2007), the Roundtable of National Minority Organisations organised by Pärnu City Government (since 2008), and the Co-ordination Council of National Minorities organised by Narva City Government have been established. The Advisory Committee is pleased to note that these platforms were used in 2011 to organise six seminars in Tallinn, Tartu and Ida-Viru on the new fundamental principles of Estonian cultural policy up to the year 2020. These "Fundamentals of Cultural Policy up to 2020" were adopted by the authorities at the end of 2013 and approved in Parliament in February 2014 (see also under Article 5).

97. The Advisory Committee also notes that representatives of national minorities were consulted, in the course of public meetings held in different regions of Estonia (Tallinn, Tartu, Narva and Kohtla-Järve,) in the course of the elaboration of the strategy "Integrating Estonia 2020", which was adopted in December 2014 (see further comment under Article 6).

Recommendations

98. The Advisory Committee reiterates its call on the Estonian authorities to expand the consultation structures for minority representatives beyond the cultural sphere and ensure an effective opportunity for persons belonging to national minorities to participate in public affairs and take active part in all decision-making processes affecting them. Institutional arrangements should be made to ensure that consultative structures created adequately represent the various national minorities.

99. The Advisory Committee reiterates its call on the authorities to facilitate further the acquisition of citizenship by all stateless persons with the view to enabling their full participation in the political life of the country and relevant decision making processes. This would be an indication of inclusiveness that could foster integration.

Effective participation in economic life

Present situation

100. The economic outlook for Estonia improved in the last five years and all segments of the Estonian society benefitted from the upturn. According to the State report, the unemployment rate in Estonia almost halved in the years 2010-2013. Unemployment has also decreased significantly in Ida-Viru County where the population is mostly Russian-speaking. Whereas in 2010, 25.6%, of the county's inhabitants were unemployed, in 2013 the figure decreased to 15%.²⁴ The Advisory Committee notes in this context that although the rate of unemployment decreased significantly across the board, the figures for Ida-Viru County confirmed that persons belonging to national minorities continue to be disproportionately affected. The situation has been understandably most difficult for persons who cannot speak Estonian, as they constituted at the end of 2013 32.3% of all registered unemployed, significantly more than their proportion within the population overall.

101. The Advisory Committee regrets to note that language proficiency requirements continue to be an obstacle to employment for a decreasing but still considerable number of persons belonging to national minorities. In this respect, the Advisory Committee notes with regret, that the situation has hardly changed since the last monitoring cycle. The requirements for proficiency in and use of the Estonian language for public servants and employees, both in public and in private sectors, have been established by the Regulation of the Government of the Republic N° 84 of 20 June 2011²⁵ and vary in accordance with the type of interaction with the public which the given position requires. Prospective candidates for employment are required to produce proof of their proficiency or to undertake an exam at the required level (the highest level provided for by the Government regulation is C1). In this context, the Advisory Committee notes that according to some of its interlocutors, the fact that graduates of Estonian-language schools are presumed to have the necessary linguistic skills and are thus not required to provide any proof (other than the graduation diploma) is considered to have discriminatory character on persons belonging to national minorities. It also creates an incentive for children belonging to national minorities to opt for Estonian language education, which on the one hand may assist their greater integration in Estonian society, but on the other infringe on their right to be taught in their minority language as provided for under Article 14.2 of the Framework Convention.

102. The Advisory Committee is deeply concerned about a case of an applicant belonging to the Russian minority, clearly identifiable by his first and last names, whose application in 2011 for a position at the Ministry of Foreign Affairs of Estonia was rejected on the ground that the Ministry expected applicants to speak Estonian at C2 level (level of proficiency not required under Government

²⁴ See State report pg. 37-38 "From 2010 to 2013 the unemployment rate of both Estonians and non-Estonians decreased by nearly two times: from 13.3% (2010) to 6.8% (2013) in the case of Estonians and from 23.4% (2010) to 12.4% (2013) in the case of non-Estonians. The unemployment rates of Estonians and non-Estonians differ almost two times, but the difference between employment rates is significantly smaller." (pg.38)

²⁵ "The requirements for proficiency in and use of the Estonian language for public servants, employees and sole proprietors" (RT I, 27.06.2011, 1)

regulation N° 84). In the specific case it notes that the Commissioner for Gender Equality and Equal Treatment issued on 16 August 2012 an Opinion in which she considered that the Ministry of Foreign Affairs had discriminated against the applicant on the ground of his ethnicity²⁶.

103. While acknowledging the importance of Estonian language skills for accessing the labour market, the Advisory Committee reiterates its opinion that language proficiency requirements constitute a barrier for the access to employment of persons belonging to national minorities and must not be disproportionate. Where proficiency in the official language may indeed be a legitimate precondition for a number of positions, requirements must in each case be proportionate to the public interest pursued, which must be clearly defined, and must not go beyond what is necessary to achieve that aim²⁷. In this context, the Advisory Committee notes with regret the unavailability of data on the proportion of persons belonging to the Russian minority employed in the public sector. Circumstantial evidence indicates that the number of such persons remains low, well below the proportion of persons belonging to the Russian minority within society.

Recommendations

104. The Advisory Committee urges the authorities to continue their efforts to address the still disproportionately high unemployment rate among persons belonging to national minorities. It further calls on the authorities to enhance their efforts to promote access to employment of persons belonging to national minorities through broader measures, beyond language training, and to ensure that particularly affected regions receive further targeted support to address the specific effects of the economic crisis on their local economy.

105. The Advisory Committee strongly encourages the authorities to ensure that language proficiency requirements are applied fairly and proportionately to the pursued aim, and asks them to consider applying the same tests to all applicants irrespective of their first language.

²⁶ See news report of the European network of legal experts in the non-discrimination field, 17 December 2012, <http://www.non-discrimination.net/content/media/EE-14-EE-ethnic-2012.pdf>.

²⁷ See Advisory Committee's Third Thematic Commentary « On linguistic rights » §87, May 2012.

III. CONCLUSIONS

106. The Advisory Committee considers that the present concluding remarks and recommendations could serve as the basis for the resolution to be adopted by the Committee of Ministers with respect to the implementation of the Framework Convention by Estonia.

107. The authorities are invited to take account of the detailed observations and recommendations contained in Sections I and II of the Advisory Committee's Fourth Opinion. In particular, they should take the following measures to improve further the implementation of the Framework Convention:

Recommendations for immediate action²⁸

- continue with efforts to further reduce statelessness and to facilitate access to citizenship for long-term residents in Estonia;
- ensure that the Language Act is implemented in a flexible way, taking into account the linguistic rights of persons belonging to national minorities; refrain from imposing fines for violations of the Language Act and replace the penalising approach with a policy of positive incentives;
- ensure that persons belonging to national minorities, in areas where they reside traditionally or in substantial numbers, have the effective possibility to use their minority language in relations with local authorities, in writing and orally; review the conditions required for the display of traditional local names, street names and other topographical indications intended for the public in minority languages in areas where persons belonging to national minorities reside traditionally or in substantial numbers;
- monitor the implementation of the requirement of teaching of 60 per cent of the study workload in Estonian in secondary Russian-language schools with a view to introducing required flexibility into the system and ensure that the range of subjects taught in minority language schools, in particular the vocational ones, generally is not undermined by a lack of qualified teachers, capable of teaching specialist subjects in Estonian.

Further recommendations²⁹

- facilitate the process of the establishment of Cultural Councils by all the relevant minority groups, in particular the Russian minority, and proceed with the review of the existing legislation with a view to covering all relevant groups;

²⁸The recommendations below are listed in the order of the corresponding articles of the Framework Convention.

²⁹The recommendations below are listed in the order of the corresponding articles of the Framework Convention.

- establish a data collection system which would record the number of racist or ethnically motivated crimes and incidences of hate speech; reconsider existing limitations in the Penal Code on investigations in cases of incitement to hatred on various grounds;
- monitor, in consultation with all interested stakeholders the implementation of the development strategy “Integrating Estonia 2020”; continue to involve national minority representatives in the formulation and/or prioritisation of policies under the implementation plan of the Strategy;
- enhance efforts to promote access to employment of persons belonging to national minorities through broader measures, beyond language training, and ensure that particularly affected regions receive targeted support to address the specific effects of the economic crisis on their local economy.